1952. File No. 01P(/52
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Legal Deptt.

G BRANCH

Subject:— Opinions on the Indian Penal Code

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C O N T E N T S.

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2.	G-178 / 30-4-52.	Question whether Gokulprasad can be prosecuted under Sec. 465 or 420 of the I.P.C. as well as under Sec. 10 of the E.S.C. (T.P.) Act, 1946.	11-12
3.	G-58 / 5-2-52.	Bombay Cotton Cloth (Regulation of Distribution) Order 1951, Cl. 3 Cotton cloth Orders licensing Order, 1948, Cl. 17 2 P.C. Sec. 408- Prosecution of Shri Ramlal and Shri Maganlal under ~~Secs. 182 and 192 r/w Sec. 192~~.	13-14
4.	G-307 / 9-7-52.	Secs. 182 and 192 r/w. Sec. 192- Prosecution of Shri Nanwar Ramnareshsingh under- (Copies not made)	15-22
5.	G-428 / 5-9-52.	Question whether Shri Sini, a holder of a permit for purchasing 5 Cwts. of soft coke can be prosecuted for breach of Instructions Nos. 3 and 7 on the Permit	23-24.

C O N T E N T S.

Sr. No.	R.I./O.No.	Subject.	Pages.
6.	G-317 / 14-7-52.	Question as to how sticking of posters and bills by ore private persons in 150 Small Size wo den cabins installed for distribution of milk can be legally prevented.	25-26.
7.	G-398 / 19-8-52.	Secs. 182 and 415- Prosecution of the Chairman and the Secretary of Borkund Group Corgprative Dairy Society under-	27-34
8.	G-586 / 4-11-52.	Secs. 409 and 477-A- Prosecution of Shri Deshmukh, ex-Godownkeeper, under.	35-48.
9.	G-712 / 24-12-52.	Question re. intimidating a Rationing Inspector (copies not made)	49-54.

Officer of the R.

The Mangger efn- and the Cashier Shri Ramanlal and Shri Maganlal can be prosecuted for breach of clause 3 of the Bombay Coetton Cloth (Regulation of Distrubution) Order, 1951, for obtaining cloth on the ration cards of others, and under clause 17 of the Cotton Cloth Dealers Licensing Order, 1949, for issuing false cash memos. A prosecution under section 408 I.P.C. for breach of trust will be feasible both on the ground of dishonest misappropriation or conversion of the property, namely, cloth entrusted to them for their own use and on the ground of dishonestly disposing of the cot-cloth in violation of the clear direction of-the law prescribing the mode, namely, disposing it of only to card-holders. These offences can be combined at one trial. It will be unnecessary to complicate the proceedings by adding a charge under section 465. In the first place, it will be difficult to get material which will conclusively establish that charge, and in the second place that offence was only a means to the principal end, namely, breach of trust for which a prosecution is already recommended. However, for the purposes of evidence before launching prosecution, it is necessary to get the cash memos. In question examined by the handwriting exp rt and the handwritings of the accused concerned.

2. The card, holders may be liable to be prosecuted under clause 4 of the Cotton Cloth (Regulation of Distribution) Order, 1951. Action against them would not seem expendient especially as they would supply the main

main evidence against the principal accused.

3. H.D. may be moved to consider whether action should not be taken against Head Constable Stephen Jethalal and Constable Chandra Singh.

O.C.

Remembrancer of Legal Affairs.

U. H. to S.T.C., No. G- 58, dated the 6th Feb., 1952.

SSH / 24/7/56.

Office of the R.L.A.

By stretching the language used in section 425 Indian Penal Code it may perhaps by-no be possible to bring the offence of unauthorisedly sticking bills to milk Booths under that section viz. mischief; but the offence might fall under section 95 Indian Penal Code and the maxim 'de minimis non curat lex' (the law does not take account of trifles) might apply unless it is shown that the mischief is so widespread that most of the Booths are spoiled that any and some punishment as a deterrent would be necessary.

Under the English law, provision is made in section 54(10) of the ~~Metropo~~ Metropolitan Police Act, 1839 for imposing a penalty of not morethan forty Shillings on any person who affixes bills to any building, wall or fence without the consent of the owner/or occupier (p. 1 1 of statutes of England Vol. 19). I would suggest an amendment of the Bombay Police Act, 19 1 on the lines of the English law.

D/O. Remembrancer of Legal Affairs.

U.L. to M.C., No. G- 317, dated the 14th July 1952.

Soli / 24/7/56.

Office of the H.L.A.

It is true that for the recovery of the amount of Rs.9768/- and odd a suit will have to be instituted but it is difficult at this stage on the material available in these papers to decide against whom such a suit should be instituted. The Assistant Registrar reports that the records of the Society do not reveal any any pruchase of oilcake on credit by the Society. From this report the District Agricultural Officer comes to the conclusion that the amount has been misappropriated by the office bearers of the Society. The report of the Assistant Registrar does not say anything about the resolution purported to have been passed by the Society and it seems further investigation is necessary to prove that there is no such resolution on the records of the Society. It will be premature to launch a prosecution without ascertaining all the facts. As suggested by the District Agricultural Officer at the end of the his report at p. 11, further investigation by the Criminal investigation Department should be made and thereafter the course of action regarding filing of a prosecution or/and institution of a suit should be decided.

Remembrancer of Legal Affairs.

U.O. to A. & F.D., No. C- 398, dated the 19th August 1952.